

SENATE AMENDMENTS

2nd Printing

By: Thierry, Anderson, Slawson, et al.

H.B. No. 4758

A BILL TO BE ENTITLED

AN ACT

relating to a prohibition on certain e-cigarette products; creating
a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as the Protecting Children
from Electronic Cigarette Advertising Act.

SECTION 2. Subchapter H, Chapter 161, Health and Safety
Code, is amended by adding Section 161.0876 to read as follows:

Sec. 161.0876. PROHIBITED E-CIGARETTE PRODUCTS. (a) A
person commits an offense if the person markets, advertises, sells,
or causes to be sold an e-cigarette product, if the product's
container:

(1) depicts a cartoon-like fictional character that
mimics a character primarily aimed at entertaining minors;

(2) imitates or mimics trademarks or trade dress of
products that are or have been primarily marketed to minors;

(3) includes a symbol that is primarily used to market
products to minors;

(4) includes an image of a celebrity; or

(5) includes an image that resembles a food product,
including candy or juice.

(b) An offense under this section is a Class B misdemeanor.

SECTION 3. This Act takes effect January 1, 2024.

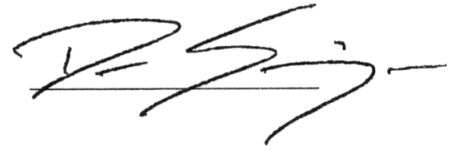
ADOPTED

MAY 23 2023

Lately Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY:



1 Amend H.B. No. 4758 (senate committee report) in SECTION 2 of
2 the bill as follows:

3 (1) In added Section 161.0876(a), Health and Safety Code (page
4 1, line 26), between "(a)" and "A", insert the following:

5 For purposes of this section, "e-cigarette product" includes any
6 substance containing nicotine from any source that is intended for
7 use in an e-cigarette.

8 (b)

9 (2) On page 1, line 39, strike "(b)" and substitute "(c)".

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 24, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4758 by Thierry (Relating to a prohibition on certain e-cigarette products; creating a criminal offense.), **As Passed 2nd House**

Passage of the bill would prohibit the sale of certain e-cigarette containers that depict images that are aimed at marketing to minors. As a result, sales of e-cigarette containers and the associated sales tax revenue to the state could be reduced.

The bill would amend Chapter 161, Subchapter H, of the Health and Safety Code, regarding the distribution of cigarettes, e-cigarettes, or tobacco products, by adding Section 161.0876.

The new section would prohibit the sale of e-cigarette containers that depict a cartoon-like fictional character that mimics a character primarily aimed at entertaining minors; imitate or mimic trademarks or trade dress of products that are, or have been, primarily marketed to minors; include a symbol or celebrity image that is primarily used to market products to minors; or resemble a food product, including candy or juice. A violation of the prohibition would be a Class B misdemeanor.

Selling an e-cigarette container prohibited above could lead to the suspension of the seller's e-cigarette retailer's permit and assessment of administrative fines.

While the prohibition of certain e-cigarette containers could lead to reduced sales tax revenue and violations of the new section could lead to increased administrative or criminal fine revenue, the number of containers to be prohibited, their values, the number of potential violators to be assessed fines, and the administrative fine amounts to be assessed are unknown and, as such, the revenue implications of this bill cannot be determined.

It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Local Government Impact

Passage of the bill would prohibit the sale of certain e-cigarette containers that depict images that are aimed at marketing to minors. As a result, sales of e-cigarette containers and the associated sales tax revenue to units of local government that levy a sales tax could be reduced.

It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, NPe, BRI, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 16, 2023

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4758 by Thierry (Relating to a prohibition on certain e-cigarette products; creating a criminal offense.), **As Engrossed**

Passage of the bill would prohibit the sale of certain e-cigarette containers that depict images that are aimed at marketing to minors. As a result, sales of e-cigarette containers and the associated sales tax revenue to the state could be reduced.

The bill would amend Chapter 161, Subchapter H, of the Health and Safety Code, regarding the distribution of cigarettes, e-cigarettes, or tobacco products, by adding Section 161.0876.

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Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, NPe, BRI, SD

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 27, 2023

TO: Honorable Stephanie Klick, Chair, House Committee on Public Health

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4758 by Thierry (relating to a prohibition on certain e-cigarette products; creating a criminal offense.), **Committee Report 1st House, Substituted**

Passage of the bill would prohibit the sale of certain e-cigarette containers that depict images that are aimed at marketing to minors. As a result, sales of e-cigarette containers and the associated sales tax revenue to the state could be reduced.

The bill would amend Chapter 161, Subchapter H, of the Health and Safety Code, regarding the distribution of cigarettes, e-cigarettes, or tobacco products, by adding Section 161.0876.

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Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, NPe, SD, BRI

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 14, 2023

TO: Honorable Stephanie Klick, Chair, House Committee on Public Health

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4758 by Thierry (Relating to a prohibition on certain e-cigarette containers.), **As Introduced**

Passage of the bill would prohibit the sale of certain e-cigarette containers that depict images that are aimed at marketing to minors. As a result, sales of e-cigarette containers and the associated sales tax revenue to the state could be reduced.

The bill would amend Chapter 161, Subchapter H, of the Health and Safety Code, regarding the distribution of cigarettes, e-cigarettes, or tobacco products, by adding Section 161.0876.

The new section would prohibit the sale of e-cigarette containers that depict a cartoon-like fictional character that mimics a character primarily aimed at entertaining minors; imitate or mimic trademarks or trade dress of products that are, or have been, primarily marketed to minors; include a symbol or celebrity image that is primarily used to market products to minors; or resemble a food product, including candy or juice.

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Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, NPe, SD, BRI